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COMPLETED ORIGINAL

FAILURE OF FEDERAL DEPARTMENTS AND AGENCIES TO COLLECT AUDIT-RELATED DEBTS

TWENTY-FIFTH REPORT

BY THE

COMMITTEE ON GOVERNMENT OPERATIONS

Y1.1/8:97-727

AUGUST 12, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 12, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: By direction of the Committee on Government Operations, I submit herewith the committee's twenty-fifth report to the 97th Congress. The committee's report is based on a study made by its Legislation and National Security Subcommittee.

JACK BROOKS, *Chairman.*

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Mr. BROOKS, from the Committee on Government Operations, submitted the following

TWENTY-FIFTH REPORT

BASED ON A STUDY BY THE LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE

On August 10, 1982, the Committee on Government Operations approved and adopted a report entitled "Failure of Federal Departments and Agencies to Collect Audit-Related Debts." The chairman was directed to transmit a copy to the Speaker of the House.

I. SUMMARY

This report describes the results of a study by the Subcommittee on Legislation and National Security on the effectiveness of Federal departments' and agencies' efforts to collect debts resulting from audits. The report is based on hearings conducted by the Subcommittee and a review performed by the General Accounting Office.[1] The hearings included witnesses representing the GAO and the Office of Management and Budget. Reports of two earlier studies on closely-related subjects were issued by the Committee on June 18, 1979 and October 20, 1981.[2] Those reports urged executive departments and agencies to establish effective audit resolution systems to insure that debts disclosed by audits are properly accounted for and are promptly collected.

However, the executive departments and agencies still have not

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[1] GAO Report, "Federal Agencies Negligent In Collecting Debts Arising From Audits," AFMD-82-32, Jan. 22, 1982.

[2] H. Rept. 96-279, first report by the Committee on Government Operations, "Failure of Government Departments and Agencies to Follow Up and Resolve Audit Findings," June 13, 1979 and H. Rept. 97-279, eleventh report by the Committee on Government Operations, "Continued Failure of Departments and Agencies to Take Effective Action on Audit Findings," Oct. 20, 1981.

established effective audit resolution systems. In fact, most agencies do not even know the total amount of audit-related debts owed to them. The situation has not greatly improved since GAO reported in October 1978 that the lack of a good system for resolving auditors' findings could be costing the Government hundreds of millions of dollars annually—most of which grantees and contractors are keeping, although they are not entitled to these funds under applicable laws and regulations.

In February 1982, the Subcommittee held its third set of hearings focusing on the negligence of Federal agencies in collecting debts arising from audits. GAO testified that Federal agencies' collection systems are so inadequate that the total amount of audit-related debt due the Government cannot be determined, and the small portion that can be identified ($374 million) remains uncollected for years. Much of this delay in collection is simply because Federal agencies do not treat the collection effort with enough priority. Agencies are slow to determine the amount of the debt, do not promptly bring debts under accounting control, and do not effectively monitor collections.

The hearing also revealed that poor agency management practices signifiantly contribute to the poor collection record. Specifically, agencies (1) "forgive" millions of dollars of audit-related debts without the reasonable collection effort requested by the Federal Claims Collection Standards; (2) allow legitimate appeal processes to be abused by grantees to delay payment of their debts while they retain use of Federal funds, at a cost to the Government of millions of dollars; (3) do not charge interest on hundreds of millions of dollars in delinquent debts.

In addition to these accountability and management problems, Federal agencies can and do unknowingly accept their own or other Federal funds as payment of audit-related debts. GAO testified that when agencies settle debts by offsetting grantees' indebtedness against grant advance payments, they usually do not have adequate assurance that the program itself is not reduced. When audit-related debts are repaid in cash, agencies are often unaware of the effect. Such payments may reduce funds available for other Federal programs.

The Committee has seen some encouraging signs of progress recently. The OMB is drafting new policy guidance on audit resolution—Circular A–50—which could make substantial improvements. The President's Council on Integrity and Efficiency has repeatedly stated a commitment to effective audit resolution. OMB recently formed an interagency assessment team to review audit resolution decisions in selected agencies with the intention of improving the process. While these signs of progress have appeared, the Committee intends to maintain its surveillance to insure that improvements are substantive.

II. INTRODUCTION

A. Historical interest of the committee

The Committee on Government Operations has long recognized the importance of effective auditing and its integral role in achieving sound financial management in the Federal Government. The Committee's predecessor, the Committee on Expenditures in the Executive

Departments, reported the Budgeting and Accounting Procedures Act of 1950 (31 U.S.C. 67), which provides a complete framework for the budgetary, accounting and auditing procedures currently in place in the Federal Government. Among other provisions, this act provides for the establishment of accounting and internal controls over all funds, property, and other assets in all Federal departments and agencies. A major part of these controls includes the establishment of an effective internal auditing operation.

The Inspector General Act of 1978 (Public Law 95–452) and other legislation reported by the Committee on Government Operations led to the creation of statutory Inspectors General in 16 Federal departments and agencies. Among other responsibilities, the Offices of Inspector General are responsible for conducting and supervising audits and investigations of department and agency programs and operations and for reporting to agency heads and Congress on significant problems, abuses, and deficiencies relating to the administration of programs and operations.

The Committee on Government Operations also reported a bill,[3] passed by the House on May 19, 1981, and pending before the Senate, to establish Offices of Inspector General in the Departments of Defense (DOD), Treasury and Justice. The Committee believes these agencies will benefit from statutory Inspectors General through improved management, efficient use of resources and more emphasis on the elimination of fraudulent and wasteful practices.

The Subcommittee on Legislation and National Security has held numerous hearings on the effectiveness of auditing in the executive branch. In 1977 and 1978 the Subcommittee held hearings and the Committee on Government Operations issued reports on the effectiveness of the Army Audit Agency, the Air Force Audit Agency and the Naval Air Service.[4] Others in Congress also have been interested in more effective auditing. The Senate Appropriations Committee included language in the Supplemental Appropriations and Rescission Act of 1980 (Public Law 96–304) which required Federal departments and agencies to resolve all pending audits by September 30, 1981, and to decide on the disposition of any new audits within six months.

B. Hearings on audit resolution—1979

In recent years, the Subcommittee on Legislation and National Security has taken an active role to improve the quality of governmental auditing. In particular, it has placed considerable emphasis on the need to resolve, or take appropriate action on, audit findings in a timely manner. In March 1979, the Subcommittee held hearings on the results of a GAO review of Federal departments' and agencies' systems for resolving audit findings. GAO found that $4.3 billion in audit findings, contained in nearly 14,000 audit reports of 34 agencies, had not been acted upon. GAO attributed this condition to the low priority given audit resolution by agency officials and to inadequate systems for tracking and resolving audit findings.

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[3] H.R. 2098, 97th Congress, 1st session.

[4] H. Rept. 95–807, sixteenth report by the Committee on Government Operations, "Improving Internal Auditing in the Department of the Army," Nov. 3, 1977; and H. Rept. 95–1675, thirty-fourth report by the Committee on Government Operations, "Improving Internal Auditing in the Departments of Air Force and Navy—An Interim Report," Oct. 2, 1978.

In addition to the Subcommittee hearings, the Committee on Government Operations issued a report in June 1979 on the failure of Federal departments and agencies to follow up and resolve audit findings. In its report, the Committee made several recommendations to the Director of OMB, the Secretary of Defense, and the Director of the Office of Personnel Management which would strengthen Federal departments' and agencies' audit resolution systems. All three agencies responded to the Committee recommendations and made changes to incorporate many but not all of the Committee's recommendations.

C. Following up—1981 hearings

The Subcommittee on Legislation and National Security continued to monitor progress agencies were making to implement its audit resolution system recommendations and in June 1980, requested a follow-up review by the GAO. In January 1981, GAO reported to the Subcommittee that Federal departments and agencies had made disappointing progress in improving their audit resolution systems. GAO's review encompassed 73 Federal Government organizations with 10 agencies being evaluated in detail. The GAO report stated in part that:

> Although Government agencies spend hundreds of millions annually to audit Federal programs and operations, most of them still lack effective systems for resolving audit findings. In 1978, GAO reported $4.3 billion in unresolved findings at 34 agencies involving potential recoveries, penalties, revenues or savings. GAO now reports the problem is worsening. Following GAO's 1978 report, the Office of Management and Budget revised its policy guidelines emphasizing prompt and proper resolution of audit findings. Most agencies' systems, however, are not yet in compliance. GAO turned up numerous examples of agency failure to correct problems or improve operations as recommended by audit. OBM needs to clarify its policy guidance on audit resolution and extend its oversight to make sure agencies comply with it. Agency management must be made accountable for taking appropriate actions to resolve audit findings.

Upon completion of the GAO review, the Subcommittee held a second round of hearings on February 25, June 16, and July 23, 1981 on the continued failure of departments and agencies to take effective action on audit findings. The hearings demonstrated that the Committee's recommendations had not been implemented and that its overall objectives of sound financial management and effective internal control were still a long way from being achieved. Witnesses from the Federal Government acknowledged their agencies' shortcomings and admitted that promises and assurances made 2 years earlier had not been kept. Repeatedly during the Subcommittee hearings, the matter of procedures for collecting disallowed costs was raised as an area where serious deficiencies appeared to exist.

In October 1981, the Committee on Government Operations issued a follow-up report entitled "Continued Failure of Departments and Agencies to Take Effective Action on Audit Findings." The report disclosed persistent neglect by executive departments and agencies in resolving audit findings. Recommendations were made to the Direc-

tor of OMB, the Secretary of Defense and the Director of the Office of Personnel Management.

As a result of the concern expressed during the hearings about the final step in the audit resolution process—the actual recovery of disallowed costs—the Subcommittee Chairman asked GAO in October 1981 to evaluate how departments and agencies collect these audit-related debts. GAO's report to Chairman Brooks [5] was the subject of a hearing called by the Subcommittee on February 24, 1982.

III. DISCUSSION

A. The final step in the audit resolution process

The Federal Government spends about $500 million each year to audit the programs its departments and agencies manage. The audit function plays a vital role in assisting management by independently evaluating program activities and recommending improvements. It uniquely supplements internal management controls and is essential for determining whether funds are spent efficiently, economically, and effectively in a manner consistent with laws, regulations and program objectives.

To be useful, the information provided by the audit process must be considered by responsible management officials and acted upon. That process of audit resolution involves evaluating the audit findings, making a determination of the appropriate action in response to the findings and completing that action including the recovery of any amounts due the Government as a result of the audit findings. This final link in the audit resolution chain—the recovery of disallowed costs—was the subject of an inquiry by the Subcommittee on Legislation and National Security which culminated in hearings on February 24, 1982.

For more than three years this Committee has vigorously pushed the executive branch to improve its audit resolution systems. Five separate hearings have, on each occasion, resulted in promises by Federal departments, agencies, and the Office of Management and Budget to make audit resolution a high priority and to establish effective systems which would assure the proper resolution of all auditors' findings.

Unfortunately the Committee has seen scant evidence of any real priority placed on audit resolution. The executive branch has hardly tried to determine whether the Committee's concern is justified. At the Committee Chairman's request, GAO examined the debt collection phase of the audit resolution process and found Federal agencies doing such a poor job of managing and collecting these audit-related debts that most agencies do not know the total amount owed to them. They neither collect debts promptly nor charge interest when payments are late. When they are paid, agencies usually do not know whether the amounts received have been taken from their own or other Federal programs.

The Committee has noted claims by the current administration of a commitment to reducing waste and mismanagement in the Government and to restoring accountability in Federal programs. Without

[5] GAO report, "Federal Agencies Negligent In Collecting Debts Arising From Audits," AFMD-82-32, Jan. 22, 1982.

priority attention to the resolution of billions of dollars in audit findings, such a commitment will fall far short of significant achievement.

B. Magnitude of audit-related debt

Existing legislation as well as OMB regulations require executive agencies to aggressively pursue collection of all debts arising from audit disallowances and to establish and maintain systems of accounting and internal control over the collection of such debts.

The major legislative authority for debt collection in the Federal Government is the Federal Claims Collection Act of 1966 (31 U.S.C. 951). The art requires the Comptroller General and the Attorney General to issue joint regulations implementing the law. The regulations (4 C.F.R. 101–105) are entitled "The Federal Claims Collection Standards," and have the force and effect of law. The standards require agencies to take aggressive action to collect amounts due, when feasible, by offsetting future paymnets to the debtor.

The Accounting and Auditing Act of 1950 (31 U.S.C. 66a) requires the head of each executive agency to establish and maintain systems of accounting and internal controls. The purpose of this requirement is to provide adequate assurance of the legality, propriety, and correctness of disbursements and collections of public funds.

In December 1979, the Office of Management and Budget issued new regulations pertaining to audit followup which require agencies to maintain accounting and collection controls over audit-related debts. Contained in Circular A–73, the regulations, in part, state:

> Agency followup systems must provide for a complete record of action taken on audit findings and associated disallowed, suspended, or questioned costs. Such systems must provide for the following:
>
> Maintain accurate records of all audit reports or significant findings until final resolution. Records will be maintained to insure appropriate accounting and collection controls over amounts determined to be due the Government.

Despite such accounting and collection control requirements, GAO's review disclosed that Federal agencies are doing such a poor job of accounting for audit-related debts that the total amount due the Government from audit findings cannot be determined. The small portion that can be identified remains uncollected for years because Federal agencies fail to take aggressive action. Federal agencies lack collection systems that would insure that audit-related debts are carefully controlled and aggressively pursued.

In testimony before the Subcommittee on Legislation and National Security on February 24, 1982, Comptroller General Bowsher discussed the magnitude of audit-related debt as follows:

> Federal departments and agencies reported to us a total of $374 million in outstanding audit-related debts as of June 30, 1981. However, we believe this amount to be understated because many Federal agencies did not provide us with the amount of their audit-related debts and because of the widespread lack of adequate systems to control these debts. Four departments and agencies (USDA, Commerce, NASA, and VA) could not provide any data. However, in just one region

> of USDA we found $8.1 million in audit-related debt outstanding as of June 30, 1981. In addition, eight other Federal departments and agencies reported they had no outstanding audit-related debts.

Furthermore, the GAO report pointed out that 32 Federal agencies reported collecting only $278 million during the three fiscal years 1978 through 1980. Of the 32 agencies surveyed by the GAO, half of them reported either no recoveries or were unable to report an amount.

The Committee on Government Operations in its October 1981 report entitled "Continued Failure of Departments and Agencies to Take Effective Action on Audit Findings" demonstrates that unresolved audit findings are in the billions. The report shows that both the number of open audit reports in the Federal Government and the amount of improper expenditures that should be recovered are dramatically increasing, although as yet, they have not been totalled. GAO estimated in October 1978 that there were 14,000 open audit reports and $4.3 billion in unresolved audit findings for 34 agencies. In a January 1981 follow-up report, GAO found that those same 34 agencies accounted for $14.3 billion in unresolved audit findings. It was noted that while some of the increase in unresolved findings was attributable to agencies' improved systems for tracking and reporting audit findings, nonetheless, the figures were considered conservative, because many agency officials continue to remove findings from control records before final resolution—that is, before funds are recovered, debts are forgiven, or findings are determined to be in error.

In an effort to require agencies to institute more timely action on audit findings, Congress directed agencies in the Supplemental Appropriations and Rescission Act of 1980 (PL 96–304) to resolve all pending audits by September 30, 1981, and to decide on the disposition of any new audit findings thereafter within six month timeframes. The stated intent of section 305 of the Act was to require agencies to comply with the time limits established by OMB Circular A–73 which states:

> Make written determinations promptly on all audit findings, and initiate action to assure that these determinations are carried out. Such determinations shall be made within a maximum of six months after issuance of the report. Final resolution should proceed as rapidly as possible.

However, OMB has changed its definition of "audit resolution" from the whole process of completing remedial or collection action on audit findings to merely the reaching of agreement on action to be taken. This change in definition has already caused confusion and misleading claims.

In testimony before the Subcommittee on Legislation and National Security on February 24, 1982, OMB's Associate Director for Management, Mr. Harold I. Steinberg stated:

> I guess, when you get down to it, the bottom line is the results or what is actually happening with the audit findings. The meetings (with designated agency followup officials) were used to review more than just the (audit resolution) system. We also took a look to see how the agencies would be faring in terms of the September 30, 1981 (Supplemental

> Appropriations and Rescission Act) legislative guideline. . . . We think that the September 30 results were quite significant. From a position where, in January 1981, the GAO reported that there were $1.65 billion unresolved audits over 12 months old, we were able to report in September 1981 that there was only $218 million unresolved for more than six months.

Mr. Steinberg's statement suggests that "bottom line results" were achieved on billions in unresolved findings. This statement implies that almost all of the $1.65 billion in unresolved audit findings have been disposed of in some ultimate way. However, only agreement has been reached on what to do with the audit findings. The Committee has seen in the past that agreement reached on audit disposition is no guarantee of actual recoveries to the Government.

The Committee is also concerned about what appears to be a process which favors the auditee in the resolution of billions of dollars in questioned costs. The GAO's estimate of $14.3 billion in unresolved audit findings as of July 1980 contained $9.3 billion in unresolved Energy regulatory findings which would not result in funds returned to the Government. Nearly all of the remaining five billion dollars in monetary audit findings were apparently resolved as of September 30, 1981, yet only $278 million in costs determined to be unallowable over a three-year period were collected as of June 30, 1981.

This large disparity seems to indicate a serious deficiency in the audit resolution process. Either auditors are questioning costs which should not be questioned or agency management is allowing costs which should be disallowed, or both.

C. Fundamental weaknesses in accountability

Comptroller General Charles Bowsher testified that none of seven major agencies, where GAO reviewed the handling of audit-related debts, had adequate accounting and collection controls. In its report to the Subcommittee, GAO documented case after case showing basic weaknesses in accountability for substantial amounts owed to Federal agencies as a result of audit disallowances.

The Comptroller General attributed much of the accountability weaknesses to the lack of management priority by agency officials, both at top and middle management, for aggressive debt collection efforts. During the February 24, 1982 hearing, Comptroller General Bowsher stated:

> Although some agencies establish accounts receivable for audit-related debts, no agency has been doing this on a timely basis. None of the agencies have been promptly collecting outstanding audit-related debts and the monitoring of this debt has been ineffective. Follow-up efforts have been irregular and infrequent at all agencies. Furthermore, at all agencies reviewed, the collection of audit-related debts owed by subgrantees has been inadequate. In addition, although most of the agencies stated they have a policy of charging interest on outstanding debt, very little interest has been collected, and no agency has a policy of charging interest on audit-related debts that are under appeal. Also, I should add that none of the

agencies reviewed made any effort to determine whether auditees reduced program performance when repaying audit-related debts.

OMB Circular A–73, as revised in November 1979, requires "appropriate accounting and collection controls over amounts determined to be due the Government." However, nothing more specific is contained in the circular and agencies have either ignored those provisions of the circular or considered them a low priority. Both the Committee on Government Operations and the GAO have recommended that OMB clarify and expand its circular on audit resolution. In October 1978, as a result of its first major government-wide review of the audit resolution process, the GAO recommended:

> Agency auditors be required to keep accurate records of all findings until a final disposition has been made—where recovery of funds is involved this means until the funds are recovered, the debt forgiven, or the finding determined to be in error.
>
> To insure aggressive recovery efforts, GAO recommends that accounting and collection controls be established for any amounts due the Government as a result of audit findings.

In June 1979, the Committee recommended that OMB revise its policy guidance on audit followup and that the revision emphasize the responsibility of top agency management for the effectiveness of audit resolution and require that the executive departments' and agencies' tracking and reporting systems separately identify questioned costs that are recommended to be recovered from contractors and grantees and that such recoveries be separately identified in agency accounting records.

In its November 1979 changes to Circular A–73, OMB made several improvements. However, the revisions did not incorporate the Committee's recommendations that agency tracking and reporting systems separately identify questioned costs that are recommended to be recovered and that agencies separately identify such recoveries in accounting records when they are made.

As a result of the Committee's latest review of the audit-related debt collection function, it is clear that fundamental improvements are needed in the way agencies handle debts attributable to costs disallowed through the audit process. The earlier gains achieved in tracking and determining the validity of audit findings have had little effect since the debts resulting from these findings are rarely placed under adequate accounting control.

OMB and the seven agencies reviewed by GAO provided information to the Subcommittee for the record subsequent to its February 24, 1982, hearing. Agency reaction to the GAO report and the hearings was generally positive. Several agencies provided details of corrective action already being taken to improve accountability over audit-related debts. Each agency agreed that better accounting controls were necessary and informed the Subcommittee that procedures were being implemented to assure that accounts receivable were established to control all debts arising from audits.

OMB's circular on audit resolution has been under revision since February 1981. In June 1981, Deputy OMB Director Harper stated

that a revision was underway and estimated it would take 60 to 90 days to complete. As of June 30, 1982, OMB still had not issued a revised circular. Chairman Brooks asked OMB if its revised circular will address the need for a standard procedure to establish a debt once agency management agrees that costs questioned by auditors are not allowable. OMB responded:

> The revised Circular is expected to provide instructions for the proper recording of accounts receivable when audit-related debts are determined. Procedures for collecting such debts will be addressed separately as part of our debt collection efforts.

D. Low management priority given to audit recoveries

Aside from the fundamental weaknesses in accountability, Federal departments and agencies are not collecting a significant portion of audit-related debts because of poor management policies and practices which stem from the low priority given to audit resolution by executive branch managers. Comptroller General Bowsher testified:

> We noted a number of poor management practices which we believe contribute to agencies' inability to collect audit debts promptly and effectively.
>
> Specifically, we noted that agencies are inappropriately forgiving debts without a reasonable collection effort.
>
> A second poor management practice we noted was that agencies have allowed legitimate appeal processes to be used by grantees to delay payment of their debts at a cost of millions of dollars to the Federal Government.
>
> A third poor management practice we noted was that agencies have not charged interest over the last three years on hundreds of millions of dollars in delinquent debt.

Regarding the first poor management practice, GAO found that the Department of Agriculture had gone to great lengths to avoid collecting millions of dollars it found spent in violation of its own Food Stamp regulations. Other agencies have similarly violated the Claims Collection Standards by terminating debts rather than taking aggressive action to collect them. Comptroller General Bowsher testified that:

> Agencies are inappropriately forgiving debts without a reasonable collection effort. The Claims Collection Standards supported by a 1978 Comptroller General decision require agencies to aggressively collect all claims of the United States and not waive recovery of grant funds. At one regional office of the Department of Agriculture, we found that $12 million in a audit-related debts were waived without even attempting collection.

The Omnibus Budget Reconciliation Act of 1981, enacted after GAO's review was completed, specifically authorizes the Secretary of Agriculture to waive claims arising from fraud, waste and abuse in the Food Stamp Program "if the Secretary determines that to do so would serve the purposes of this Act." The Committee believes that

this provision could lead to abuse without clear and specific criteria to guide its use.

The second poor practice found is that Federal agencies are allowing legitimate appeal processes to be used by grantees to delay the payment of debts. Most disallowed costs are appealed. The process is time-consuming and many appeals are withdrawn prior to settlement. Comptroller General Bowsher described to the Subcommittee abuses of the appeal system. He stated that many grantees have an incentive to appeal, thereby delaying payment to the Government. Since no interest is charged while the appeal is in process, the grantee in fact has as interest-free loan until such time as all appeal proceedings are completed and collection occurs. Such a system seems to encourage frivolous appeals and, at the same time, to overburden the system so that legitimate appeals are delayed.

The Committee supports GAO's recommendation calling for the accrual of interest on all amounts under appeal. This would discourage groundless appeals, allowing more prompt resolution of others. OMB, and most of the agencies reviewed, agree that this recommendation should be implemented. OMB representatives have stated that its audit resolution circular currently under revision, will require the charging of interest on all amounts under appeal.

The third poor management practice cited was that agencies have not charged interest over the last three years on hundreds of millions of dollars in delinquent debt. Since April 1979 the Claims Collection Standards have required that agencies charge interest on delinquent debts, according to the Treasury Fiscal Requirements Manual. Comptroller General Bowsher testified, however, that

> Only one agency, of all those responding to our (government-wide) questionnaire, reported an amount of interest collected, and this amount was only $3,100. Agencies reported $374 million of audit-related debt outstanding as of June 30, 1981. If it takes agencies one year to process and collect this debt, which agencies reported to be the average length of time for debt recovery, we estimate that about $66 million in interest could be collected on this audit-related debt.

OMB testified that it agrees that interest should be charged on delinquent debts and plans to include provisions in its revised circular to require the accrual of interest on all delinquent audit-related debts, to begin no later than 30 days from the date the auditee is notified of the debt.

E. Collection at program expense

In addition to the accounting and managerial weaknesses which act to keep audit recoveries at a low level, the collections that are made can be at the expense of the intended beneficiaries of Federal programs. Without adequate controls to assure otherwise. Federal agencies can unwittingly accept their own or other Federal funds as payment of audit-related debts.

Agencies use two primary methods to recover audit disallowances—offset and cash recovery. When agencies settle debts by offsetting grantees' indebtedness against grant advance payments, they usually do not have adequate assurance that the grantee augments the re-

duced payments with non-Federal funds to keep the program at its intended level. When audit-related debts are repaid in cash, agencies usually do not know if these funds come from the same or another Federal assistance program.

During its review, GAO found examples of grantees paying back disallowed costs with Federal funds provided under other grant programs. Its review showed that, if given a choice, grantees often preferred settling audit-related debts through offset. If unable to avoid returning misspent funds, many grantees would rather take a reduction in Federal program benefits than spend non-Federal funds to pay such debts. Such settlements are clearly inequitable and have the effect of twice penalizing the intended Federal program beneficiaries—first when the funds were improperly applied and second, after the audit has disclosed the improper application of funds, when the Federal agency offset this amount from a subsequent grant.

The Committee finds this kind of resolution to be extremely counterproductive and directly contrary to the congressional intent for which those Federal funds were appropriated. Permitting this abuse is nevertheless consistent with the historic negative attitude of many executive agencies toward the audit process. The Committee expects strong measures by the OMB and the individual agencies to assure that the innocent, often underprivileged, intended beneficiaries of congressionally appropriated grant funds are not being penalized by this kind of mismanagement and abuse by grant administrators.

F. OMB's role in providing policy guidance on audit-related debt collection

Office of Management and Budget Circular A–73 of March 15, 1978, revised December 3, 1979, provides policies to be followed in the audit of Federal operations and programs and is applicable to all agencies of the executive branch. The circular has been under revision by OMB since February 1981. The provisions on audit followup and resolution are being removed from A–73 and incorporated into Circular A–50 which has been OMB's guidance for executive branch action on GAO reports. According to OMB, the revised Circular A–50 will provide guidance for the control of and follow-up on both GAO and executive branch audit reports, will recognize the role of the Inspectors General and designated agency follow-up officials, and will provide guidance on accounting for audit disallowances.

Until Circulars A–50 and A–73 are revised and issued, the policy guidance on audit-related debt collection continues to be in Circular A–73, revised as of December 1979, which requires agencies to "maintain accurate records of all audit reports or significant findings until final resolution. Records will be maintained to insure appropriate accounting and collection controls over amounts determined to be due the Government." Although the circular does not define "final resolution," another provision found later in the circular implies that resolution is not final until all corrective action has been completed subsequent to a determination being made on the audit findings. It requires agencies to:

> Make written determinations promptly on all audit findings, and initiate action to assure that these determinations

are carried out. Such determinations shall be made within a maximum of six months after issuance of the report. Final resolution should proceed as rapidly as possible.

In testimony before the Subcommittee in June 1981, Mr. Edwin Harper, then Deputy Director of OMB, stated that "resolution" is completed after agreement is reached on action to be taken:

> An audit item is considered resolved when the program managers and the auditor agree to the specific followup action. That is the definition.

The Committee believes that Mr. Harper's definition of resolution in fact embodies only the first step in the resolution process. Hundreds of millions of dollars go uncollected because agencies fail to take aggressive action to recover misspent funds after the program managers and the auditor agree to specific action. The audit finding must be considered unresolved until that agreed upon specific action is completed including the recovery of any disallowed costs.

Other terminology has caused additional confusion and misleading claims of savings. For example, in its summary report of inspector general activities addressing fraud, waste and abuse, covering the second half of FY 1981, the President's Council on Integrity and Efficiency reported that $388 million had been collected as a result of management action sustaining auditors' findings at 13 agencies. After investigating this claim, the Subcommittee found it to be grossly overstated due, in part, to confusion over the definition of "audit recoveries."

In light of the fundamental weaknesses in accountability, collection control and management practices found by the GAO, as well as confusion that exists over the definition of terms, the Committee believes that OMB must expand and clarify its guidance to executive agencies and must take an active role in assuring that agencies comply. Clearly agencies have not complied with OMB's A–73 requirement that records be maintained to insure appropriate accounting and collection control. OMB must not only define, clarify and expand its guidance to agencies through revised regulations, but also must institute some form of oversight to assure that agencies are complying with its policies.

IV. FINDINGS

1. Program Managers in the Federal Government place a low priority on resolving the findings of auditors.

2. The magnitude of debt attributable to unresolved audit findings is not fully known. Preliminary review indicates that the amount is well over $374 million.

3. Fundamental weaknesses in accounting for and collecting audit-related debts diminish the effectiveness of the audit process and costs the Government hundreds of millions of dollars in recoverable expenditures.

4. Poor management practices at Government agencies contribute to their inability to collect audit-related debts promptly and effectively. Those poor management practices include:

> (a) inappropriately forgiving audit-related debts for reasons not based on Federal laws, regulations, or the terms of grants and contracts under which the funds were provided.

(b) allowing legitimate appeal processes to be used by grantees solely to delay or avoid payment of valid debts, allowing them to retain Federal funds interest-free to which they are not entitled.

(c) violating the Claims Collection Standards by failing to charge interest on hundreds of millions of dollars in delinquent debts.

5. Loose procedures result in grantees not being penalize for the improper use of federal funds. The practice of settling audit-related debts by reducing federal contributions as opposed to grantees' funds unfairly penalizes program recipients.

V. CONCLUSIONS

Timely and equitable audit resolution is an important responsibility of agency management in effectively carrying out programs of the Federal Government. The Committee on Government Operations on many occasions has emphasized the importance of timely and complete audit resolution. The recent hearings by the Subcommittee on Legislation and National Security again reaffirm the Committee's interest in and commitment to improving the resolution of audit findings and demonstrates that when the final step in the resolution process is not carried out, all the management circulars and tracking systems are just expensive elements in an incomplete and impotent process.

The hearings by the Subcommittee support GAO's conclusions that Federal agencies are negligent in collecting debts arising from audits. Three years ago, the Comptroller General testified before the Subcommittee that $4.3 billion in audit findings were unresolved at 34 Federal agencies. GAO estimated that about 80 percent of the $4.3 billion or about $3.4 billion in unresolved audit findings represented questionable payments to contractors and grantees. Recognizing that some of this amount would be decided in the contractors' or grantees' favor and thus not recovered, the GAO nevertheless estimated that, if properly resolved, these findings could lead to recoveries in the neighborhood of $2.5 to $3.0 billion.

In October 1981, Subcommittee Chairman Jack Brooks asked GAO to follow up on how well agencies were doing in collecting amounts found to be misspent. In its report to Chairman Brooks, entitled "Federal Agencies Negligent in Collecting Debts Arising from Audits," GAO found that the Government is doing a poor job of managing and collecting audit-related debts owed by contractors and grantees. Of the billions of dollars in costs questioned by auditors throughout the Government, GAO found that only $278 million had been recovered over the last three years—a small fraction of the $4.3 billion in unresolved audit findings reported by GAO three years ago.

Agencies have ignored OMB policy guidance on the establishment of accounting and collection controls over audit-related debts. Agency management has continued to treat the collection of disallowed costs as a low priority item.

Although it has taken more than three years, and much Committee and GAO prodding, OMB appears to be making progress in its efforts to improve the audit resolution process. OMB, in fact, is nearing completion of a new policy guidance circular, which would provide needed clarification of the accounting and collection controls over amounts

due the Government as a result of audit. The Committee applauds the OMB effort and encourages aggressive enforcement of the new circular.

It should be noted, however, that OMB in the past has not provided effective oversight of the audit resolution process and has insisted that its role does not include following up to insure that agencies implement its policies. With that history in mind, the Committee strongly encourages OMB to actively enforce and follow up on existing as well as new policy guidance in the area of audit resolution.

Agency management has primary responsibility for insuring the effective and timely collection of audit disallowances. A strong commitment by top agency management can help to insure that agency systems are developed, implemented and operated in an effective and timely manner. The designation of a highly placed official in each agency with personal responsibility for resolution of all audit findings is a clear step in the right direction.

The Committee will continue to monitor Federal agencies' efforts in this area until it is satisfied that the audit function is being used by management in the way it was intended, with equitable and expeditious action to correct deficiencies and recover funds spent for unauthorized or illegal purposes. The deterrent effect of the audit process is a valuable element nearly lost in recent times because the Government has mismanaged this valuable tool.

VI. RECOMMENDATIONS

The Committee acknowledges OMB's efforts to revise Circular A–50. The Committee recommends the circular require that:

1. A written determination of the allowability of all questioned costs be prepared within six months of audit report issuance and that any such determination disallowing costs constitute the establishment of a claim.

2. Questioned costs be considered unresolved until they are either determined to be allowable, collected, or written off as uncollectible.

3. Any claims involving funds spent in violation of law or ongoing regulations be automatically disallowed. Agencies should not be allowed to waive recovery of any such funds without express legislative direction. Where such direction is provided agencies should be required to establish specific guidelines under which such authority is to be used.

4. Accounts receivable be established for all claims arising from audit disallowances within 30 days of the establishment of the claim.

5. All claims arising from audit disallowances be collected in accordance with the Federal Claims Collection standards.

6. Agencies track and control all monetary audit findings until the collection of funds owed or until all provisions of the Claims Collection Standards have been met regarding the termination of claims.

7. Agencies charge and collect interest at the prescribed Treasury rate on all audit-related debts beginning no later than thirty days after the claim is established and continuing until collection or termination.

8. Agency audit resolution systems, including audit disallowance collection controls, be reviewed, approved, and periodically reassessed by OMB.

The Committee also recommends that Circular A–50 provide clear guidance for the processing of audit disallowance appeals. Such guidance should uphold basic rights of appeal yet provide disincentives for groundless appeals. Interest should accrue during the appeal process.

Finally, the Committee recommends that the Circular establish controls to assure that the collection of disallowed costs from grantees not reduce the level of benefits of the Federal program.

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